

No. 2771-3Lab. 67/8428.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and management of M/s Eicher Tractors (India) Ltd., N. I. T., Faridabad :—

BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR COURT,
ROHTAK

REFERENCE No. 63 OF 1966

Between

THE WORKMEN AND THE MANAGEMENT OF M/S EICHER TRACTOR (INDIA)
LTD., N. I. T., FARIDABAD

Present :—

Shri Roshan Lal Sharma on behalf of the workmen.

Shri H. N. Singh with Shri S. L. Gupta on behalf of the management.

AWARD

An industrial dispute having arisen between the workmen and the management of M/s Eicher Tractor (India) Ltd., N. I. T., Faridabad, the Government of Haryana by means of their Gazette Notification No. 62-SFIII-Lab-66/1978, dated 1st December, 1966 and in exercise of the powers conferred on them by Section 10(1) (c) of the Industrial Disputes Act, 1947 have referred to this Court for adjudication the matter mentioned below :—

Whether the dismissal of Shri Hari Singh (Purchase Peon) was justified and in order ? If not, to what relief he is entitled ?

Usual notices were issued to the parties and in response there to the workmen filed a statement of claim and the respondent management filed their written statement. The workmen pleaded that the termination of services of the claimant Shri Hari Singh has been illegal and unjustified. The management pleaded that the claimant Shri Hari Singh was employed as a purchase peon in their concern and was charge sheeted for misconducts and a proper enquiry was held against him and was dismissed as a result of that enquiry. It was pleaded that the claimant was not entitled to any relief.

The following three issues were framed in the case :—

- (1) Whether the claimant Shri Hari Singh has been dismissed as a result of a proper domestic enquiry ?
- (2) If issue No. 1 is decided against the management, whether the dismissal of the claimant is justified and in order ?
- (3) If issue Nos. 1 and 2 are decided against the management, to what relief Shri Hari Singh is entitled ?

Issue No. 1.—The claimant Shri Hari Singh was issued two charge sheets by the respondent management. Exhibit M/1 is the charge sheet, dated 30th July, 1966. In this charge sheet he has been charged for a shortage of 257 Kilograms of coal purchased by him on behalf of the management on 11th July, 1966. Exhibit M/3 is the charge sheet, dated 26th July, 1966 issued to Shri Hari Singh. In this charge sheet he has been charged for a shortage of 3½ bottles of spirit purchased by him on 23rd July, 1966. It is stated in this charge sheet that the cash memo for Rs 22.40 paise produced by him mentioned sixteen bottles of spirit having been purchased by him while the quantity of spirit when actually measured was found to be 3½ bottles less. Exhibit M/5 is the explanation submitted by the claimant to the charge sheet Exhibit M/1 and Exhibit M/6 is the explanation submitted by him in respect of the charge sheet Exhibit M/3. Exhibit M/7 is a copy of the letter of enquiry sent to the claimant. Exhibit M/8 are the enquiry proceedings covering 46 sheets. Exhibit M/9 is the report dated 9th October, 1966 of the Enquiry Officer and Exhibit M/10 is the order dated 10th October, 1966 passed by the management dismissing the claimant from their service. Exhibit M/11 is a copy of the letter under which intimation of dismissal was sent to the claimant. The documents filed by the management before the Enquiry Officer in support of the case are also on the record. The Enquiry Officer acquitted the claimant Shri Hari Singh of the charge relating to the shortage in the coal purchased on 11th July, 1966. He, however, found him guilty of the charge relating to the shortage in spirit purchased on 23rd July, 1966.

The claimant Shri Hari Singh and his representative Shri Roshan Lal Sharma were present throughout the enquiry. The management produced a number of witnesses. They have been cross-examined at length by the representative of the claimant. The

cross-examination of the witnesses of the management by the representative of the claimant has been recorded by the enquiry officer in the form of questions and answers. Each page of the enquiry proceedings is signed by the claimant himself as well as by his representative in token of the proceedings recorded therein being correct. The claimant has been supplied a copy of the day's proceedings on the very day on which the enquiry took place. In the statement of claim filed by the workmen in the present proceedings it is admitted that charge sheets were issued to the claimant and an enquiry was held against him into the charges contained in those charge sheets. The only ground on which the enquiry is sought to be declared as invalid is mentioned by the workmen in their statement of claim in the following words :—

"In respect to the spirit the allegation was that Shri Hari Singh purchased 16 bottles of spirit but later on when measured it was found to be short by $3\frac{1}{2}$ bottles. But the fact remained that the measurement was not carried out on the same bottle. The shop-keeper and his bottle was not produced in the enquiry. The shop-keeper might have measured the spirit in a bottle of 20 ozs. and at the later state the employers have measured the spirit in a bottle of 26 ozs. with the result that there was shortage of $3\frac{1}{2}$ bottles on a bottle of 26 ozs. for which Shri Hari Singh could not be held responsible for the shortage. There is no evidence in the enquiry that the bottle used by the employers was of the same measurement with the bottle of the shop-keeper. The findings of the enquiry officer in the circumstances is totally erroneous.in the circumstances the dismissal of Shri Hari Singh is wrongful and illegal on the part of the employers."

The above extract from the statement of claim of the workmen shows that the only ground taken by them to vitiate the enquiry is that the finding of the enquiry officer is erroneous. This fact is not sufficient to invalidate a domestic enquiry. The finding of the enquiry officer can not be said to be baseless or perverse. It is based upon the testimony of the witnesses produced by the management and the documents filed by them. This Court cannot sit as a court of appeal on the judgment of the Enquiry Officer. The claimant admitted before the management that the spirit was measured by the Shop-keeper by a bear bottle. It is in evidence that the management also measured the spirit with a bear bottle. If as alleged in the statement of claim of the workmen the bottle used by the Shop-keeper was of a similar size, it was also open to the claimant to produce the Shop-keeper in his defence before the Enquiry Officer and also the bottle which the Shop-keeper used in measuring the spirit. It is significant that the words used in the statement of claim are "the Shop-keeper might have measured the spirit in a bottle of 20 Ozs. "The workmen themselves are not sure whether the Shop-keeper measured the spirit with a bottle of 20 ozs. capacity. Bear bottles as stated in the findings of the Enquiry Officer are of the same size and as the claimant had admitted before the management that the Shop-keeper measured the spirit by a bear bottle, the management rightly used a bear bottle to measure the spirit brought by the claimant. The only other point argued by the learned representative of the workmen before this Court was that Shri Hari Singh claimant was not present at the time when the spirit was measured by the management. In this connection he relies on the testimony of Shri Hari Singh himself given before the enquiry officer. The enquiry officer in his report has found that Shri Hari Singh claimant was present at the time when the spirit was measured by the management. The management produced Mr. Dixit Supervisor of the Stores Department and also Mr. Tuli Section-in-Charge of the spirit Section of their concern. These two important witnesses have deposed in their testimony that Shri Hari Singh claimant was also present when the spirit was measured by them. They further depose that the spirit was measured with a bear bottle at the instance of the claimant. On this evidence the enquiry officer was justified to hold that the claimant was present at the time of the measurement of the spirit.

As held by the Supreme Court in the case reported as 1958-I-LLJ-260 an industrial tribunal can interfere in a domestic enquiry held by the management only in the following circumstances :—

- (i) When there is a want of good faith ;
- (ii) When there is victimization or unfair labour practice ;
- (iii) When the management has been guilty of basic error or violation of a principle of the natural justice ;
- (iv) When, on the materials, the finding of the enquiry officer is completely baseless or perverse.

No malafides, victimization or unfair labour practice of the part of the management have been alleged, much less proved in this case. This enquiry has been held on the principles of natural justice and no complaint of any basic error or violation of the principles of natural justice has been made in this case. The findings of the enquiry officer are based upon a good deal of evidence and therefore cannot be said to be baseless. It does not run counter to the evidence on record and is therefore not perverse. In these circumstances this Court is not justified to interfere in the domestic enquiry held by the management. The claimant Shri Hari Singh has, therefore, been dismissed by the management as a result of a fair and proper domestic enquiry held against him.

Issues Nos. 2 & 3.—In view of my finding on issue No. 1, these two issues do not arise. The claimant Shri Hari Singh is not entitled to any relief.

There will be no order as to costs in this case.

This award is submitted to the Government of Haryana, Department of Labour as required under Section 15 of the Industrial Disputes Act, 1947.

(HANS RAJ GUPTA),
Presiding Officer,
Labour Court, Rohtak.

No. 2764-3-Lab-67/8430.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and the management of M/s Swastika Metal Works Jagadhri, Distt. Ambala :—

BEFORE SHRI K. L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL HARYANA,
CHANDIGARH

REFERENCE No. 87 OF 1967

between

THE WORKMEN AND THE MANAGEMENT OF M/S SWASTIKA METAL WORKS,
JAGADHRI DISTRICT AMBALA)

Present:

Shri Roshan Lal Gupta authorised representative of M/s. Swastika Metal works, Jagadhri.

AWARD

An Industrial Dispute, having come into existence between the workmen and the management of M/s Swastika Metal Works, Jagadhri, District. Ambala, the same was referred for adjudication to the Industrial Tribunal, Punjab,—*vide* Punjab Government Notification No. 524-SF-III-Lab-I-65/25492, dated 18th September, 1965. The three items of dispute which are mentioned in the notification are as under :—

1. Whether the following workers are intitled to the grant of bonus for the year 1963-64, declared and paid to the other workmen by the management for the factory. If so, with what details ?
 - (1) Jeet Singh, Kanshi, Sadho, Bachna of Niara Section.
 - (2) Rooda Mal, Ram Lal, Jagdish, Krishana, Saroop, Karta, Phoolu, Krishana II, Sadhoo, Rulia, Nihala, Amar Singh, Bhajna, Sughan, Punnu, Bhola, Pattu and Mam Chand of Smelting Section.
 - (3) Simroo, Duggan, Manchara and Mengal Ram of Roda Bedai Section.
 - (4) Bicha, Moti, and Ram Diya of Cutting Section.
2. Whether the workers are entitled to the grant of dearness allowance. If so, at what rate and with what details?
3. Whether the following retrench workers are entitled to be re-employed/re-instated. If so, with what details ?
 - (1) Maurata Ram, Tungla, Ram Krishan, Dasondhi, Rama, Balbir, Krishan Lal, Siri Ram and Poonoon Ram of Press Section.
 - (2) Jhandu Ram, and Puran Chand of Dilai Section.
 - (3) Munshi Ram, son of Udho Ram, Madan Lal, son of Isher Dass, Om Parkash, son of Chuni Lal, Roop Lal, son of Jetha Nand, Moti Ram, son of Mulakh Ram, Prem Chand, son of Ram Sarup, Suraj Lal, son of Nankoo, Brij Lal, son of Baru Ram, Som Nath, son of Asa Ram, Jandoo, son of Baru Ram, Puran Chand, son of Ruda Ram and Man Singh, son of Biru.

Usual notices were issued to the parties and in response to the same, the workmen filed their statement of claims and the management filed their written statement to the same. Issues were then framed and

parties were directed to produce their evidence, in respect of the said issues. Before the conclusion of the evidence, however, Punjab Re-organisation Act, 1966 came into force on 1st November 1966 and the case was then transferred by the said Tribunal to this Tribunal under Section 93 of the said Act. On the 23rd May, 1967 when the case came up before me for arguments, the parties informed me that the dispute had been mutually settled between them and I recorded the statement of their representatives. In terms of the said settlement I make my awards as follows :—

Demand No. 1.

This demand has been withdrawn and is accordingly dismissed.

Demand No. 2.

The management shall increase the wages of each of their workmen by a sum of Rs. 15/- per month, w. e. f. 1st January, 1967. Arrears for the month of January and February 1967 will be paid to the workmen within two months from the date of publication of this award. The increase for the month of March and similarly for future months will be paid along with the wages of the said months. The claim made by the workmen for dearness allowance will be satisfied by this increase.

Demand No. 3.

The management shall re-employ Sh. Jhandu Ram, Pura Chaud and Dasandi Ram mentioned in item No. 3 of the dispute as given in the reference and this will be done within three months from the date of publication of this award. They will be paid the same wages which they were getting previous to their retrenchment and will also be entitled to the increase of Rs. 15/- per month in their wages from the date of their re-employment. As to the other workmen the demand is dismissed.

No order as to costs.

The 4th April, 1967.

K. L. GOSAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 413, dated Chandigarh, the 6th April, 1967

The award be submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required by Section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 2576-3Lab. 67/8432.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s Usha Forging and Stamping Ltd., Faridabad :—

BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR COURT, ROHTAK

REFERENCE No. 52 OF 1966

between

THE WORKMEN AND THE MANAGEMENT OF M/S USHA FORGING AND STAMPING LTD., FARIDABAD

Present :

Shri Roshan Lal Sharma, on behalf of the workmen.

Shri B.K. Sharma, on behalf of the management.

AWARD

An industrial dispute between the workmen and the management of M/s Usha Forging and Stamping Ltd., Faridabad, having arisen, the Government of Haryana by means of their Gazette notification No. 18-SF-III-66/964, dated 18th November, 1966, and in exercise of the powers conferred on them by section 10 (1) (c) of the Industrial Disputes Act, 1947, have referred to this Court, for adjudication the matter mentioned below:—

Whether the termination of services of Sarvshri Siri Ram and Jhabbu Ram is justified and in order? If not, to what relief they are entitled?

Usual notices were issued to the parties and in response thereto the workmen filed their statements of claims and the management filed their written statement denying those claims. Issues were framed in the case and the case was fixed for evidence of both the parties on those issues for to-day. At to-day's hearing Shri Roshan Lal Sharma on behalf of the workmen made the following statement on solemn affirmation :—

"I withdraw the claims on which the present reference is based as the two claimants have left Faridabad and are no longer interested in the dispute. The claims may be dismissed as withdrawn.

In view of the above statement made by the authorised representative of the workmen, there is nothing before this Court now to be adjudicated upon. The claims on which the present reference by the Government to this Court is based having been withdrawn by the workmen, the reference has become infructuous and is filed. The parties will bear their own costs of these proceedings.

This award is submitted to the Government of Haryana, Department of Labour, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 7th April, 1967.

HANS RAJ GUPTA,

Presiding Officer,
Labour Court, Rohtak.

No. 2975-3 Lab. 67/8434.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s Durable Steel Products, Mathura Road, Faridabad.

BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR COURT, ROHTAK

REFERENCE NO. 49 OF 1966

Between

**THE WORKMEN AND THE MANAGEMENT OF M/S DURABLE STEEL PRODUCTS,
MATHURA ROAD, FARIDABAD**

Present:—

Shri Roshan Lal Sharma, on behalf of the workmen.

Shri S. L. Gupta, on behalf of the management.

AWARD

An Industrial dispute having arisen between the workmen and the management of M/s Durable Steel Products, Mathura Road, Faridabad, the Government of Haryana by means of their gazette notification No. SF-2-3LAB-66/308, dated 18th November, 1966 and in exercise of the powers conferred on them under Section 10 (1) (c) of the Industrial Disputes Act, 1947 have referred to this Court for adjudication the matter mentioned below:—

Whether the termination of services of Sarvshri Nathu Ram and Mohinder Kumar is justified and in order if not, to what relief they are entitled?

Usual notices were issued to the parties and in response thereto the workmen filed their statements of claims and the management filed their written statement denying those claims. It was pleaded on behalf of the workmen that the termination of services of the two claimants Sarvshri Nathu Ram and Mohinder Kumar was wrongful, illegal, malafide and against the principles of natural justice and was the result of victimization of unfair labour practice on the part of the management. On behalf of the management it was pleaded that the claimant Shri Mohinder Kumar had resigned his service with the management of his own accord on 14th May, 1966. As regards Shri Nathu Ram, it was pleaded that he was charged with certain acts of misconduct and was given a charge sheet in the morning of 14th June, 1966 but that he left the factory in the afternoon of 14th June, 1966 and never returned to duty thereafter. It was further pleaded that the two claimants were gainfully employed in other concerns.

The case was fixed for hearing for 17th April, 1967. The representatives of the parties were, however, present before this Court to-day and requested that the case should be taken up to-day as the parties have arrived at a settlement. The statements of the representatives of the parties were recorded and are reproduced below :—

Statement of Shri Roshan Lal Sharma on behalf of the workmen on S. A.

"The parties have arrived at a settlement. The workmen withdraw the claims on which the present reference is based. The management are liable to pay to the two claimants pre-dismissal dues, if any, like wages, leave wages, etc. The case may be filed."

Statement of Shri S. L. Gupta on behalf of the management on S. A.

"I have heard the statement made by Shri Roshan Lal Sharma on behalf of the workmen. It is correct. In view of the withdrawal of the claims by the workmen, this case may be filed."

I make this award in terms of the aforesaid statements of the representatives of the parties. The parties are left to bear their own costs of these proceedings.

This award is submitted to the Government of Haryana, Department of Labour as required under Section 15 of the Industrial Disputes Act, 1947.

HANS RAJ GUPTA,

Presiding Officer, Labour Court,
Rohtak.

Dated the 7th April, 1967,